

TAB 13

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

_____	x	
	:	
THE CITY OF HUNTINGTON,	:	Civil Action
	:	
Plaintiff,	:	No. 3:17-cv-01362
	:	
v.	:	
	:	
AMERISOURCEBERGEN DRUG	:	
CORPORATION, et al.,	:	
	:	
Defendants.	:	

_____	x	
	:	
CABELL COUNTY COMMISSION,	:	Civil Action
	:	
Plaintiff,	:	No. 3:17-cv-01665
	:	
v.	:	
	:	
AMERISOURCEBERGEN DRUG	:	
CORPORATION, et al.,	:	
	:	
Defendants.	:	

BENCH TRIAL - VOLUME 2
BEFORE THE HONORABLE DAVID A. FABER, SENIOR STATUS JUDGE
UNITED STATES DISTRICT COURT
IN CHARLESTON, WEST VIRGINIA

MAY 4, 2021

1 **Q.** And pain as a fifth vital sign was the practice of
2 monitoring patient pain as closely as other vital signs like
3 blood pressure and respiration; correct?

4 **A.** Correct.

5 **Q.** It was not only monitoring patient pain, but also
6 treating that pain more aggressively, relieving pain;
7 correct?

8 **A.** Correct, not necessarily relieving but addressing.

9 **Q.** Addressing pain, okay. And that concept, pain as a
10 fifth vital sign, came from the Joint Commission on
11 Accreditation of Healthcare Organizations. Is that correct?

12 **A.** That is correct.

13 **Q.** And that organization, just for ease of reference, is
14 frequently called by the acronym JCAHO or just the Joint
15 Commission; is that correct?

16 **A.** Joint Commission is the current term.

17 **Q.** Joint Commission. Thank you. So what is the Joint
18 Commission? What does it do?

19 **A.** It's not an area of expertise, but it's known to be the
20 regulatory body that the Government uses to identify and
21 evaluate hospitals for safety.

22 **Q.** And in order for a hospital to participate in federal
23 healthcare programs like Medicaid and Medicare and things
24 like that, the hospital must be accredited by JCAHO. Is
25 that your understanding?

1 **A.** That is correct.

2 **Q.** Okay. And the Joint Commission made implementing pain
3 as the fifth vital sign a criteria for accreditation in that
4 early to mid 2000 time frame, didn't it?

5 **A.** Yes.

6 **Q.** So hospitals and the doctors who were operating in
7 those hospitals had to comply with that requirement;
8 correct?

9 **A.** Correct.

10 **Q.** And you would agree, wouldn't you, that pain -- the
11 practice of pain as a fifth vital sign had an effect on
12 physician prescribing practices with respect to opioids;
13 correct?

14 **A.** For some.

15 **Q.** For some physicians?

16 **A.** Uh-huh.

17 **Q.** Okay. Are you aware that the City of Huntington has
18 sued the Joint Commission alleging that the Joint
19 Commission's promotion of pain as a fifth vital sign caused
20 the opioid epidemic?

21 **A.** I was not.

22 **Q.** Okay. I'd like to show you some of the allegations
23 from that complaint and just ask you about them.

24 If I could have slide 5, please.

25 This is from the complaint filed by the City of

1 Huntington against JCAHO. And you can see hopefully on your
2 screen that the city alleged that JCAHO teamed with Purdue
3 Pharma and grossly misrepresented the addictive qualities of
4 opioids and fostered dangerous pain control practices.

5 Do you agree with what the city has alleged there?

6 **A.** It's not an area that I've dug deeply into, but enough
7 to know that I've seen newspaper articles and, you know, a
8 couple of reports that have talked about the underestimation
9 of risks with opioids and overestimation of utilization of
10 pain.

11 **Q.** And that link those things, at least in part, to the
12 Joint Commission and their accreditation standards; correct?

13 **A.** I haven't really seen it linked directly to Joint
14 Commission because the people that developed the pain as a
15 fifth vital sign were people from the American Pain Society
16 and other national organizations that came together to do
17 that from a group. And I remember that piece only because
18 we had somebody give us a lecture on it in residency, you
19 know, about how it got there.

20 **Q.** About how pain as a fifth vital sign came to be
21 developed?

22 **A.** The concept behind it and the idea of having it.

23 **Q.** Okay. Okay. Well, let me --

24 Can I have slide 6, please?

25 I guess I'll say irrespective of how pain as a fifth

1 opioids?

2 **A.** Not while I was training.

3 **Q.** Okay. Do you recall providing a deposition in this
4 matter, Dr. Waller?

5 **A.** I do.

6 **Q.** Okay. Was that about August 3rd, 2020? Does that
7 sound right?

8 **A.** Seems correct.

9 **Q.** And you were under oath at the time of the deposition;
10 correct?

11 **A.** I was.

12 **Q.** And you told the truth in your deposition I'm sure;
13 correct.

14 **A.** To the best of my ability, yes, for all six and a half
15 hours.

16 **Q.** Okay. Oh, I'm sorry.

17 MS. WICHT: I'm going to ask if Dr. Waller's
18 deposition transcript could be passed out. And we have
19 three copies to hand to the Court and the staff --

20 THE COURT: Okay.

21 MS. WICHT: -- and a copy for the witness and a
22 copies for all the parties.

23 BY MS. WICHT:

24 **Q.** And, Doctor, do you have the transcript in front of
25 you?

1 **A.** I do.

2 **Q.** And I'll ask you -- I'm going to play the clip for you,
3 but I'll ask you to turn to Page 56 and you're welcome to
4 follow along. And I'm going to play a clip from Page 56,
5 lines 8 through 18. And if you could play clip 8, please.

6 (Video deposition played as follows:)

7 "Q. Okay. Just to clarify, is it your understanding
8 that as of 2003 to 2006, a portion of the medical field felt
9 that opioids were safe and effective for the treatment of
10 chronic pain?"

11 "A. I can't speak for everybody, but it was the
12 general gestalt at the time given that pain as the fifth
13 vital sign was being implemented in hospitals and as such
14 that it was felt that that was the only lever we had to pull
15 for the treatment of pain for those that didn't do a deeper
16 dive, yeah."

17 BY MS. WICHT:

18 **Q.** Was that the testimony that you provided in your
19 deposition, Dr. Waller?

20 **A.** It is.

21 **Q.** And doctors who were prescribing opioid medications for
22 chronic non-cancer pain at this point in time -- at that
23 point in time?

24 **A.** Uh-huh.

25 **Q.** Sorry. You have no reason to believe that those

1 doctors were not acting in good faith in the practice of
2 medicine; correct?

3 **A.** No. I felt like as chief resident, some were lazy.
4 But that was, that was the point that I had made on that
5 one. But it wasn't the gestalt at my location. It was the
6 gestalt as I had stated there. So both were the same.

7 **Q.** And just to clarify, because I think when I asked the
8 question and you answered "no," I think the record might be
9 a little bit unclear.

10 So you have no reason to believe that doctors who were
11 prescribing opioid medications for chronic non-cancer pain
12 at that time were not acting in good faith; correct?

13 I just put a lot of negatives in there. I'm sorry.
14 Why don't we strike that and try it again.

15 Okay. Doctors who were prescribing opioid medications
16 for chronic non-cancer pain in the mid 2000s, you have no
17 reason to believe that they were not operating in the good
18 faith practice of medicine; correct?

19 **A.** To remove the negative and return to positive, I
20 believe that they were acting in good faith.

21 **Q.** Thank you. You improved that and I appreciate it.

22 I want to ask you about a book authored by Dr. Scott
23 Fishman titled *Responsible Opioid Prescribing*. Are you
24 familiar with that book?

25 **A.** I am.

1 **Q.** Do you know that that was published in approximately
2 2007, so just shortly after you finished your residency?

3 **A.** It was.

4 **Q.** And did that book purport to describe, as its title
5 suggests, methods for doctors to engage in responsible
6 prescribing of prescription opioids?

7 **A.** I don't remember -- I don't recall the specifics of the
8 book. I read it I think back at that time because it was
9 distributed in the State of Michigan where I was practicing.

10 **Q.** And was it -- when you say it was distributed in the
11 State of Michigan, you mean that the Board of Medicine in
12 the State of Michigan distributed it out to every doctor in
13 the State of Michigan? Is that correct?

14 **A.** Made a copy available, yes. I don't know who did it.
15 I assume -- you know, I'll take your word for it being some
16 body other than myself purchased it.

17 **Q.** Some regulatory body made a copy available to every --

18 **A.** Someone said, "You have to read this," which is not
19 uncommon in medical school, residency, or reality.

20 **Q.** You get publications thrust upon you that you're
21 required to read?

22 **A.** Yes.

23 **Q.** Are you familiar with what the plaintiffs in this case
24 have said about Dr. Fishman's book in their complaint?

25 **A.** Not specifically, no.

1 represents her good faith opinion, correct, what she's
2 written?

3 **A.** No. This is, you know, her good faith opinion, yes.

4 **Q.** Okay, okay. I'm sorry. I'm going to hand out one more
5 thing. I'd like to hand you another segment of the book.
6 I'm going to hand you what's been marked for identification
7 purposes as DEF-WV-03125.

8 Okay. And if I could have slide 15, please.

9 So, Dr. Waller, this is Chapter 9 of the ASAM handbook
10 on pain and addiction. Correct?

11 **A.** Appears so, yes.

12 **Q.** And it's titled "Understanding and Preventing Opioid
13 Misuse and Abuse." Correct?

14 **A.** Correct.

15 **Q.** Now, the format of the ASAM handbook is that at the end
16 of each chapter, there are suggestions for further reading
17 on the topics discussed; correct?

18 **A.** For which portion? I'm sorry.

19 **Q.** At the end of each chapter.

20 **A.** Oh, at the end of each chapter. I'm sorry. Yes.

21 **Q.** Okay. And there are resources for more information on
22 the topic discussed in that chapter; correct?

23 **A.** Correct.

24 **Q.** Okay. In fact, if you flip to the end of 03125 that's
25 in front of you, the end of Chapter 9, you'll see actually

1 on the second to last page there you'll see "for more
2 information on the topics discussed." Correct?

3 **A.** Uh-huh.

4 **Q.** And that's on the slide -- if I could have slide 18,
5 please.

6 And you see listed as more information on the topics
7 discussed, among other things, you'll see Dr. Fishman's
8 book, *Responsible Opioid Prescribing*." Correct?

9 **A.** I do see that.

10 **Q.** And the handbook says that, "This 150-page book by pain
11 expert Scott Fishman, M.D., translates the FSMB's model
12 policy on pain management into practical guidelines for
13 office-based practice."

14 Do you see that?

15 **A.** I do see that.

16 **Q.** Now, that's the same book that plaintiffs allege here
17 misled doctors about the risks of prescribing opioids and
18 causing them to overprescribe opioids; correct?

19 **A.** That's correct.

20 **Q.** And the same book that you earlier expressed your
21 disagreement with; correct?

22 **A.** Correct.

23 **Q.** So is it your testimony as you sit here today that as
24 one of the editors of this handbook that the particular
25 resources cited by the authors in Chapter 9 are not

1 materials on which physicians reasonably could rely?

2 **A.** I think the way that they -- well, first, if I had been
3 the author, that wouldn't have been in there. I wasn't,
4 however.

5 The -- however, the way that they talk about it is just
6 an explanation of the FSMB's -- a further explanation of the
7 FSMB's guidelines and not as a tool to rely on, but more
8 just an explanation of those guidelines for practitioners.

9 **Q.** Well, they describe it as practical guidelines for
10 office-based practice; correct?

11 **A.** Well, built on top of the FSMB guidelines. I mean, so
12 basically they're describing it as a distillation of those.
13 They're not describing it as you have to go here. They're
14 just describing it as -- the FSMB has guidelines.

15 And, therefore, this is a book that further delineates
16 those guidelines into the ability to apply it. I wouldn't
17 state that they're holding it up with a gold star. I think
18 they're just very specifically stating here that it's there.

19 **Q.** Well, they're pointing physicians -- or they're
20 pointing clinicians who might read this book and want more
21 information on the topic discussed, they're pointing them to
22 Dr. Fishman's book; correct?

23 **A.** Yeah, as a resource to understand how to implement the
24 FSMB guidelines.

25 **Q.** Did you, did you tell the authors of this chapter

1 Q. All right. And were you aware that by the late 1990s,
2 there was a greater emphasis on using opioids to treat pain?

3 A. As mentioned in some lectures that I had had, again,
4 going through medical school and residency, but not as an
5 experiential moment.

6 Q. And did you know that the Board of Medicine in this
7 policy statement had stated that the Board recognizes that
8 opioids are appropriate treatment for chronic non-malignant
9 pain in selective patients? Were you aware that the Board
10 of Medicine had issued that guidance to the doctors of West
11 Virginia?

12 A. I think that's not the -- that single statement is not
13 the totality of the advice given the way that I had read it.
14 I agree that sentence is in there, but it's qualified by the
15 preceding sentence, which is more specific.

16 Q. No, but I wanted to ask you about the sentence I wanted
17 to point you to. And my question is, were you aware that
18 the Board of Medicine had told the doctors of West Virginia
19 that the Board recognizes that opioids are appropriate
20 treatment for chronic non-malignant pain in selective
21 patients? Were you aware of that?

22 A. No, I was not aware of that for all the reasons stated
23 earlier.

24 Q. And if you go to the fourth paragraph, did you know
25 that the Board had told the doctors of West Virginia in 1997

1 that a doctor need not fear disciplinary action by the Board
2 if complete documentation of prescribing of opioids in
3 chronic non-malignant pain, even in large doses, is
4 contained in medical records?

5 **A.** Again, not aware given I had not seen this document.

6 **Q.** So, when you -- this document reflects that the Board
7 of Medicine recognized that doctors could make a legitimate
8 decision to prescribe opioids even in large doses for
9 chronic pain, correct?

10 **A.** I think that's over-attributing a memo in my mind.

11 **Q.** That's what it says.

12 **A.** It's not a guidance. So, a physician would not
13 interpret it as such. There are no references. It's not
14 direct guidance. It's a letter stating do your job and
15 we're going to back off. And that's basically what I would
16 pull from that.

17 **Q.** And the Board here referred in particular to the
18 prescribing of opioids for chronic non-malignant pain even
19 in large doses as something that would not lead to
20 disciplinary action if adequately documented. That's what
21 the Board said, correct?

22 **A.** When all other measures fail, as stated in the first
23 paragraph. I just think it's important for context that it
24 wasn't stated in isolation that feel free to write whatever
25 you want. They were pretty specific on the documentation on

1 the back of the page. The amount of documentation required
2 for this is almost an impossibility, quite honestly, from a
3 medical standpoint but, you know, when they put that there
4 plus, you know --

5 **Q.** Dr. Waller, I asked you a very specific question. You
6 just referred back to when all other measures fail. That's
7 referring to the use of opioids in circumstances of
8 suffering in the terminally ill when all other measures
9 fail, correct?

10 **A.** It was -- so, if they're stating -- if they're stating
11 that when all other measures fail, then you can use opioids
12 in someone who is dying, my assumption is that they would
13 also attribute that same statement to someone who is not
14 dying from an illness of the pain that they have.

15 **Q.** That's not what it says, correct?

16 **A.** As a physician, I'm interpreting it differently than a
17 lawyer.

18 **Q.** Well, I -- let's focus on the language then, Dr.
19 Waller. The language of the second sentence in the first
20 paragraph says, "There's a general consensus that opioids
21 have a place in relieving intractable pain and suffering in
22 the terminally ill when other measures fail regardless of
23 diagnosis." Do you see that?

24 **A.** I see that.

25 **Q.** So, that's stating a general consensus, correct?

1 take notice.

2 **Q.** Okay. Let me show you another document.

3 MR. HESTER: May I approach, Your Honor?

4 THE COURT: You don't have to ask me every time.
5 Once is good enough.

6 MR. HESTER: All right. I try to be friendly.

7 BY MR. HESTER:

8 **Q.** Dr. Waller, I've handed you a document. It's McKesson
9 Exhibit 1218. It's headed "West Virginia Board of Medicine
10 Quarterly Newsletter" from 2005. Have you seen this
11 document before, Dr. Waller?

12 **A.** No, sir, not that I recall.

13 **Q.** Were you aware that the Board of Medicine in 2005 had
14 issued another policy statement for the use of controlled
15 substances for the treatment of pain?

16 **A.** I was not aware of this document.

17 **Q.** Is this the kind of document that you're generally
18 aware of that State Medical Boards issue from time to time
19 as a way to educate doctors in their state about
20 developments in the practice of medicine?

21 **A.** In West Virginia, it seems this is the pathway that
22 they use.

23 **Q.** And let me ask you to look at the first page and the
24 notice, which is right up at the top, and you can see that
25 it states here that the West Virginia Board of Medicine

1 adopted this policy at its meeting in January, 2005. Do you
2 see that?

3 **A.** I do.

4 **Q.** And then, a few sentences further down, it says, "The
5 following policy overrides all statements and policies
6 relating to controlled substances for the treatment of pain
7 previously adopted by the Board with one exception relating
8 to end of life treatment." Do you see that?

9 **A.** I do.

10 **Q.** And were you aware that there was this decision made by
11 the Board of Medicine around this time to issue a policy
12 statement on the use of controlled substances for treating
13 pain in West Virginia?

14 **A.** No, sir, I was not.

15 MR. HESTER: Your Honor, I would move McKesson
16 Exhibit 1218 into evidence.

17 THE COURT: Mr. Farrell?

18 MR. FARRELL: Generally, as a plaintiffs' lawyer,
19 Judge, I'm in favor of liberal admission of documents into
20 the record. As long as we're afforded the same privilege, I
21 have no objection.

22 MR. HESTER: I can't make any commitments on that,
23 Your Honor. We're moving on this particular document.

24 THE COURT: Well, based on this witness's
25 testimony, I don't think I can let it in if you object, Mr.

1 Farrell. Do you object?

2 MR. FARRELL: I do not object, Your Honor.

3 THE COURT: All right. It's admitted, there being
4 no objection from any of the other parties.

5 **MCKESSON DEFENSE EXHIBIT 1218 ADMITTED**

6 BY MR. HESTER:

7 **Q.** Dr. Waller, let me point you to the second paragraph of
8 this document on the first page and if you go to the
9 sentence that begins accordingly, where it says,
10 "Accordingly, this policy has been developed to clarify
11 Board's position on pain control", do you see that?

12 **A.** I do see that.

13 **Q.** And do you have an understanding as you look at this
14 document that it is a policy that was meant to clarify the
15 Board of Medicine's position on using controlled substances
16 in West Virginia to treat pain?

17 **A.** With the second part of the sentence, it seems to talk
18 about that, but without fully kind of reading it and
19 absorbing it, I'm not going to know what pain they're
20 talking about because all it says is "position on pain
21 control", which is overtly vague.

22 **Q.** Let me ask you to look at the second page, please. Do
23 you see right at the first sentence at the top of the second
24 page, it says, "The Board recognizes that controlled
25 substances, including opioid analgesics, may be essential in

1 the treatment of acute pain due to trauma or surgery and
2 chronic pain, whether due to cancer or non-cancer origins"?
3 Do you see that?

4 **A.** I do.

5 **Q.** And were you aware that this was the policy as stated
6 by the West Virginia Board of Medicine for the treatment of
7 pain in West Virginia?

8 **A.** I was not.

9 **Q.** Were you aware there was a Congressional hearing in
10 2001 on the abuse of OxyContin?

11 **A.** Not that I recall, no.

12 **Q.** Something we heard about yesterday in openings. You --
13 you weren't aware of this?

14 **A.** I was not.

15 **Q.** So -- so, I take it you don't know whether this policy
16 statement was issued after those Congressional hearings
17 since you're not aware of whether there were such
18 Congressional hearings?

19 **A.** Well, you stated that the Congressional hearings were
20 in 2001 and the policy statement is 2005, so my assumption
21 would be this was after that, but --

22 **Q.** Four years later, correct?

23 **A.** Based on the math.

24 **Q.** If I'm right on my 2001 date?

25 **A.** If you -- if -- I will take your word for the dates

1 given.

2 **Q.** Okay. Let me ask you to look at another document,
3 please. Dr. Waller, I've handed you Defendant's
4 Exhibit 2796, another quarterly newsletter issued by the
5 West Virginia Board of Medicine, this one dated in 2009.
6 Have you seen this document before?

7 **A.** I have not. You know, I wasn't asked to prepare
8 statements on this, so I think this is going to be a common
9 theme. My specific report was designed for me to answer
10 basic questions about the proper use of pain, but not to
11 really evaluate specific things. I'm happy to look at each
12 of these. I just -- I think my answers are going to be
13 consistently I don't know.

14 **Q.** You did talk about the use of opioids for the treatment
15 of pain, correct?

16 **A.** And I'm happy to answer and can answer all questions
17 related to my opinions on that.

18 **Q.** And I really just had one question for you on this, Dr.
19 Waller, which I think is easy enough to cover. If you go to
20 Page 6 of the document and you should look at these little
21 numbers to the bottom left corner.

22 **A.** Okay.

23 **Q.** And this, this refers to the Board of Medicine in the
24 Spring of 2008 distributing a book to every licensed
25 physician and physician's assistant in West Virginia. Do

1 **A.** True. Correct as based on the reference. And I
2 haven't read that specific reference, so that's their
3 interpretation of the reference, yes.

4 **Q.** And at the bottom of that same paragraph, there's a
5 statement by Dr. Compton that "pharmaceutical companies were
6 developing a new generation of extended-release opioid
7 analgesics that contained more opioid per pill, but were
8 promised to be less addicting, including Purdue Pharma's
9 OxyContin." Do you see that?

10 **A.** I do.

11 **Q.** That's a true statement, correct?

12 **A.** Factually correct, yes.

13 **Q.** Okay. Let me point you to the second paragraph in the
14 second column -- or the right-hand column. Sorry. About
15 midway through, there's a statement that it became common
16 for patients to go home from emergency rooms, hospitals and
17 dental offices with prescriptions for enough opioids to last
18 several weeks to a month to treat their acute pain, yet
19 often needing only a few pills before their pain could be
20 managed with over-the-counter medications. Do you see that?

21 **A.** I do.

22 **Q.** And that's a true statement, correct?

23 **A.** Again, per their interpretation of the reference, but
24 as a direct matter, that was not the case from the emergency
25 medicine field as I had interpreted it during my time

1 practicing emergency medicine.

2 **Q.** Do you have any reason to doubt Dr. Compton's
3 conclusions as an epidemiologist here?

4 **A.** His conclusions on the other reference but, again, you
5 know, it becomes a domino of what that reference looks like
6 and what it stated. So, I can't state with certainty how
7 his interpretation took place from a one-sentence statement
8 from an entire paper. That's a lot to consolidate.

9 **Q.** Let me ask you to look at the next sentence where he
10 states -- where Dr. Compton states, "As a result of these
11 shifts in practice, the supply of prescription opioids
12 increased four-fold between 1999 and 2010." Do you see
13 that?

14 **A.** I do.

15 **Q.** "And unused pills became increasingly available for
16 diversion and misuse." Do you see that?

17 **A.** I do.

18 **Q.** Is that a true statement?

19 **A.** Well, "the unused pills became increasingly available",
20 yes, I think that's a -- that's a lot of supposition in the
21 other -- there's a lot of assumption based on those last two
22 words.

23 **Q.** Let me point you to the last sentence of the paragraph
24 where Dr. Compton states in the last clause, "More than half
25 of people who misuse prescription opioids report obtaining

1 them from family or friends who have prescriptions." Do you
2 see that?

3 **A.** I do.

4 **Q.** That's a true statement, correct?

5 **A.** At the time from those data.

6 **Q.** So now, let's talk more about illicit drugs, such as
7 heroin and Fentanyl. On the first page, let me take you all
8 the way back to the first page of the article in the
9 left-hand column, bottom of the page. Dr. Compton states
10 that the, quote, "Opioid crisis in the United States is
11 really two sets of intertwined issues: Misuse of and
12 addiction to prescription opioid analgesics, which
13 predominated in the first decade of the crisis, and, more
14 recently, use of and addiction to illicit opioids." Do you
15 see that?

16 **A.** I do.

17 **Q.** That is a true statement, correct?

18 **A.** I'm going to re-read it, if it's okay, just to make
19 sure.

20 **Q.** Sure.

21 **A.** I think he left one out, but --

22 **Q.** Did I leave out a word or --

23 **A.** He left out a cause, but -- he said two sets of
24 intertwined issues and I'd say it was more of a three-set
25 braided issue, but --

1 Q. So, do you agree with the statement that Dr. Compton
2 sets out here?

3 A. I think it's incomplete.

4 Q. Let me ask you about the next sentence. "Within the
5 rubric of illicit opioid use, a further distinction can be
6 drawn between the resurgent use of heroin and the problem of
7 both deliberate and unintentional use of even more potent
8 synthetic opioid drugs; namely, illicitly made Fentanyl and
9 its analogs." Do you see that?

10 A. I do see that.

11 Q. And that's a true statement, correct?

12 A. From an epidemiologist's point of view, yes.

13 Q. Let me ask you to look at the second column on Page 1,
14 the last sentence of that carryover paragraph. Dr. Compton
15 states that, "Synthetic opioids are now almost twice as
16 commonly involved in overdose deaths as prescription opioids
17 or heroin." Do you see that?

18 A. I see that.

19 Q. That's a true statement, correct?

20 A. I would have to look at the reference for exactly what
21 they were looking at, but I would take it as such.

22 Q. Let me ask you to turn to Page 5 of the document. At
23 the very bottom of the left-hand column and carrying over to
24 the top of the right-hand column, Dr. Compton states that,
25 "There was a marked increase in overdose deaths from